

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2720 of 1981

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not? Yes
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?

No

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Versus

GOVT. OF INDIA

Appearance:

MR BHARAT J SHELAT for Petitioners
SERVED for Respondent No. 1
M/S A & D for Respondent No. 2, 3

CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE A.R.DAVE

Date of decision: 12/02/98

ORAL JUDGEMENT(per K. Sreedharan, C.J.)

The petitioners, 15 in number, were on the date of filing of this petition holding the post of Deputy Superintendent of Police in the State cadre. As per rule 4(2) of the Indian police Service (Cadre) Rules, 1954, it

was mandatory for the first respondent to examine the strength and composition of each cadre in consultation with the State Government. On the basis of said periodic assessment, strength of each cadre was to be reassessed and fixed. According to that rule, the Central Government was to examine the question of strength and composition of various cadres of posts in the police force in the State of Gujarat. Such an assessment was made on 25.6.1975 as is clear from the Notification No. 11052-2-75-AIS-9110-A. The grievance of the petitioners is that ever since 1975 neither the Central Government nor the State Government cared to carry out a review of the cadre strength of officers as per rule 4 of the Rules. Consequently, it is alleged that the petitioners were denied the benefit of being selected to the IPS rank.

2. The second proviso to rule 4(2) of the Indian Police Service (Cadre) Rules, 1954 enables the State Government to add for a period of not exceeding one year, posts to the cadre with the permission of the Central Government. It can extend to a period not exceeding 2 years. Though the State Government can create such posts over and above those in the cadre for a maximum period of 3 years, it failed to create such posts. Consequently, the petitioners were denied the benefit of holding cadre posts by virtue of the State Government's failure in not converting them to the cadre. On these counts they approached this Court by filing this petition, inter alia, praying for the issuance of direction to give effect to the provisions contained in rule 4(2) of the Indian Police Service (Cadre) Rules, 1954 by reviewing the strength and composition of the senior posts read with rule 9(2) of the Indian Police Service (Recruitment) Rules, 1954.

3. This Court, on 30th July 1981, passed the following order:-

"By way of interim relief, respondents 1 and 2 are directed to take all necessary steps for reviewing the cadre strength and for preparing the Select List required by the Rules, of the State Officers to be promoted to the Indian Police Service. Report to be made on 5th October 1981 to this Court regarding the steps taken by the respondents in this connection. It will be open to the State Government to promote either the State Officer or direct recruits to the Indian Police Service under Rule 7 of the relevant Rules to senior duty posts as and when

the same fall due during the pendency of this litigation".

Pursuant to this direction, we are told that the committee contemplated by the Rules met once and the cadre strength was re-fixed. The benefit of that re-fixation was extended to some of the petitioners.

4. The grievance now voiced by the Learned Counsel representing the petitioners is that the respondents have not reviewed the cadre strength periodically as is contemplated by the Rules after the meeting that was held pursuant to the interim order. According to the Learned Counsel, had periodical review been made as per the Rules, more posts in the Indian Police Service cadre would have become available for the petitioners to be accommodated in. So, it is prayed that respondents 1 and 2 may be directed to review the cadre strength periodically in accordance with law, right from the day the meeting was held pursuant to the interim order and vacancies in the cadre be filled by persons found suitable to hold the posts. If such an exercise is taken, it is said that the petitioners who entered the IPS cadre or otherwise will get into cadre with retrospective effect and that will confer monetary benefit to the petitioners.

5. As per the Rules, periodic revision of the cadre strength ought to have been carried out by respondents 1 and 2. Since it was not being done, this Court, by the interim order quoted above, directed reassessment of the cadre strength. That exercise should have been continued at regular intervals of 3 years. We direct respondents 1 and 2 to take up such an exercise and to fill up the vacancies, if any, found on such reassessment of the cadre strength by giving promotion to the State Officers or direct recruits to the Indian Police Service, as per rules governing the issue. This exercise must be carried out as expeditiously as possible, at any rate before the expiry of 1998.

6. The petition stands disposed of accordingly. Rule is made absolute to the above extent with no order as to costs.
